

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x  
JOHN RAIMONDI,

Plaintiff,

07 Civ. 6021 (LAK)

-against-

ANSWER

METRO-NORTH RAILROAD COMPANY,

Defendant.  
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Defendant Metro-North Commuter Railroad ("Metro-North"), for its answer to the complaint herein, alleges as follows:

1. Denies the truth of the allegations in ¶1 of the Complaint, except admits that plaintiff purports to assert jurisdiction under the Family Medical Leave Act ("FMLA"), 29 U.S.C. § 2601 et seq.

2. Admits that in ¶2 of the Complaint plaintiff purports to assert jurisdiction under FMLA and that plaintiff purports to place venue in the Southern District in New York.

3. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding plaintiff's current address contained in ¶ 3 of the Complaint.

4. Admits that Metro-North was an employer of plaintiff within the meaning of 42 U.S.C. § 2000e, et seq. and that Metro-North has more than fifteen employees, and avers that Metro-North is a public benefit corporation under N.Y. Pub. Auth. Law §§ 1260, et seq.

5. Admits to the allegations in ¶ 5 of the Complaint.

6. Admits to the allegations in ¶ 6 of the Complaint.

7. Admits to the allegations in ¶ 7 of the Complaint.
8. Denies the truth of each and every allegation in ¶ 8 of the Complaint.
9. Denies the truth of each and every allegation in ¶ 9 of the Complaint.
10. Denies the truth of each and every allegation in ¶10 of the Complaint.
11. Denies the truth of each and every allegation in ¶11 of the Complaint.
12. Denies the truth of each and every allegation in ¶12 of the Complaint.
13. Denies the truth of each and every allegation in ¶13 of the Complaint.
14. Denies the truth of each and every allegation in ¶14 of the Complaint.
15. Denies that plaintiff is entitled to any of the relief he demands in the "Wherefore" clause of the Complaint.

#### FIRST AFFIRMATIVE DEFENSE

16. Plaintiff has failed mitigate his damages, upon information and belief.

#### SECOND AFFIRMATIVE DEFENSE

17. This Court lacks subject matter jurisdiction because the Railway Labor Act, 45 U.S.C. § 151, et seq., preempts the causes of action asserted in the Complaint.

#### THIRD AFFIRMATIVE DEFENSE

18. Plaintiff has failed to exhaust his administrative remedies under the collective bargaining agreement governing his employment.

#### FOURTH AFFIRMATIVE DEFENSE

19. The Complaint fails to state a claim upon which relief may be granted.

WHEREFORE, defendant requests that this Court dismiss the complaint, award defendant its costs and attorney's fees, and grant defendant such other and further relief as the Court deems just and proper.

Dated: New York, New York  
July 18, 2007

Richard K. Bernard  
General Counsel, Metro-North Commuter Railroad  
Attorney for Defendant

By:     S/      
                 Frank Rinaldi (FR - 4958)  
                 Senior Litigation Counsel  
 347 Madison Avenue  
 New York, New York 10017  
 (212) 340-2027

CERTIFICATE OF SERVICE

STATE OF NEW YORK :  
 : ss:  
COUNTY OF NEW YORK :

CAROL MCCANN, being duly sworn, deposes and says:

I am not a party to this action, am 18 years of age and reside in Poughkeepsie, New York.

On July 18, 2007, I served a true copy of the annexed Answer and Rule 7.1 Statement, with postage pre-paid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addresses to the last known address of the addressee(s) as listed below:

Charles C. Goetsch, Esq.  
Cahill, Goetsch & Maurer P.C.  
43 Trumbull Street  
New Haven, Connecticut 06511  
(203) 777-1000

Attorneys for Plaintiff

\_\_\_\_S/\_\_\_\_\_  
Carol McCann

Sworn to me this  
\_18\_ day of July 2007

\_\_\_\_S/\_\_\_\_\_  
Notary Public